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(Original Signature of Member)

111TH CONGRESS  
1ST SESSION

**H. R. 703**

To promote bank liquidity and lending through deposit insurance, the HOPE for Homeowners Program, and other enhancements.

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IN THE HOUSE OF REPRESENTATIVES

Mr. FRANK of Massachusetts introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To promote bank liquidity and lending through deposit insurance, the HOPE for Homeowners Program, and other enhancements.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       **SECTION 1. PERMANENT INCREASE IN DEPOSIT INSUR-**  
4       **ANCE.**

5       (a) AMENDMENTS TO FEDERAL DEPOSIT INSURANCE  
6       ACT.—Section 11(a)(1) of the Federal Deposit Insurance  
7       Act (12 U.S.C. 1821(a)) is amended—

1           (1) in paragraph (1)(E), by striking  
2       “\$100,000” and inserting “\$250,000”;

3           (2) in paragraph (1)(F)(i), by striking “2010”  
4       and inserting “2015”;

5           (3) in subclause (I) of paragraph (1)(F)(i), by  
6       striking “\$100,000” and inserting “\$250,000”;

7           (4) in subclause (II) of paragraph (1)(F)(i), by  
8       striking “the calendar year preceding the date this  
9       subparagraph takes effect under the Federal Deposit  
10      Insurance Reform Act of 2005” and inserting “cal-  
11      endar year 2008”; and

12          (5) in paragraph (3)(A)(iii), by striking “, ex-  
13      cept that \$250,000 shall be substituted for \$100,000  
14      wherever such term appears in such paragraph”.

15       (b) REPEAL OF EESA PROVISION.—Section 136 of  
16      the Emergency Economic Stabilization Act (Public Law  
17      110-343; 122 Stat. 3765) is hereby repealed.

18       (c) AMENDMENT TO FEDERAL CREDIT UNION  
19      ACT.—Section 207(k) of the Federal Credit Union Act  
20      (12 U.S.C. 1787(k)) is amended—

21           (1) in paragraph (3)—

22                (A) by striking the opening quotation mark  
23                before “\$250,000”;

1 (B) by striking “, except that \$250,000  
2 shall be substituted for \$100,000 wherever such  
3 term appears in such section”; and

4 (C) by striking the closing quotation mark  
5 after the closing parenthesis; and

6 (2) in paragraph (5), by striking “\$100,000”  
7 and inserting “\$250,000”;

8 **SEC. 2. EXTENSION OF RESTORATION PLAN PERIOD.**

9 Section 7(b)(3)(E)(ii) of the Federal Deposit Insur-  
10 ance Act (12 U.S.C. 1817(b)(3)(E)(ii)) is amended by  
11 striking “5-year period” and inserting “8-year period”.

12 **SEC. 3. FDIC BORROWING AUTHORITY.**

13 Section 14(a) of the Federal Deposit Insurance Act  
14 (12 U.S.C. 1824(a)) is amended—

15 (1) by striking “\$30,000,000,000” and insert-  
16 ing “\$100,000,000,000”; and

17 (2) by inserting prior to the last sentence, the  
18 following new sentence: “The Corporation may re-  
19 quest in writing to borrow, and the Secretary may  
20 authorize and approve the borrowing of, additional  
21 amounts above \$100,000,000,000 to the extent that  
22 the Board of Directors and the Secretary determine  
23 such borrowing to be necessary.”.

1 **SEC. 4. FDIC SYSTEMIC RISK SPECIAL ASSESSMENTS.**

2 Section 13(c)(4)(G)(ii) of the Federal Deposit Insur-  
3 ance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended to read  
4 as follows:

5 “(ii) REPAYMENT OF LOSS.—

6 “(I) IN GENERAL.—The Corpora-  
7 tion shall recover the loss to the De-  
8 posit Insurance Fund arising from  
9 any action taken or assistance pro-  
10 vided with respect to an insured de-  
11 pository institution under clause (i)  
12 from 1 or more special assessments on  
13 insured depository institutions, deposi-  
14 tory institution holding companies  
15 (with the concurrence of the Secretary  
16 of the Treasury with respect to hold-  
17 ing companies), or both, as the Cor-  
18 poration determines to be appropriate.

19 “(II) TREATMENT OF DEPOSI-  
20 TORY INSTITUTION HOLDING COMPA-  
21 NIES.— For purposes of this clause,  
22 sections 7(c)(2) and 18(h) shall apply  
23 to depository institution holding com-  
24 panies as if they were insured deposi-  
25 tory institutions.

1                   “(III) REGULATIONS.—The Cor-  
2                   poration shall prescribe such regula-  
3                   tions as it deems necessary to imple-  
4                   ment this clause. In prescribing such  
5                   regulations, defining terms, and set-  
6                   ting the appropriate assessment rate  
7                   or rates, the Corporation shall con-  
8                   sider: the types of entities that benefit  
9                   from any action taken or assistance  
10                  provided under this subparagraph;  
11                  economic conditions; the effects on the  
12                  industry; and such other factors as  
13                  the Corporation deems appropriate.’”.

14 **SEC. 5. CHANGES TO HOPE FOR HOMEOWNERS PROGRAM.**

15       Section 257 of the National Housing Act (12 U.S.C.  
16 1715z-23) is amended—

17               (1) in subsection (e)—

18                   (A) in paragraph (1), by striking subpara-  
19                  graph (B);

20                   (B) in paragraph (2)(B), by striking “90  
21                  percent” and inserting “93 percent”;

22                   (C) by striking paragraph (7);

23                   (D) by redesignating paragraphs (8), (9),  
24                  (10), and (11) as paragraphs (7), (8), (9), and  
25                  (10), respectively;

1           (2) in subsection (h)(2), by striking “, or in any  
2           case in which a mortgagor fails to make the first  
3           payment on a refinanced eligible mortgage”;

4           (3) by striking subsection (i) and inserting the  
5           following new subsection:

6           “(i) ANNUAL PREMIUMS.—

7           “(1) IN GENERAL.—For each refinanced eligible  
8           mortgage insured under this section, the Secretary  
9           shall establish and collect an annual premium in an  
10          amount equal to not less than 0.55 percent of the  
11          amount of the remaining insured principal balance  
12          of the mortgage and not more than 0.75 percent of  
13          such remaining insured principal balance, as deter-  
14          mined according to a schedule established by the  
15          Board that assigns such annual premiums based  
16          upon the credit risk of the mortgage.

17          “(2) REDUCTION OR TERMINATION DURING  
18          MORTGAGE TERM.—Notwithstanding paragraph (1),  
19          the Secretary may provide that the annual premiums  
20          charged for refinanced eligible mortgages insured  
21          under this section are reduced over the term of the  
22          mortgage or that the collection of such premiums is  
23          discontinued at some time during the term of the  
24          mortgage, in a manner that is consistent with poli-  
25          cies for such reduction or discontinuation of annual

1 premiums charged for mortgages in accordance with  
2 section 203(c).”;

3 (4) in subsection (k)—

4 (A) by striking the subsection heading and  
5 inserting “Exit Fee”;

6 (B) in paragraph (1), in the matter pre-  
7 ceding subparagraph (A), by striking “such sale  
8 or refinancing” and inserting “the mortgage  
9 being insured under this section”; and

10 (C) by striking paragraph (2);

11 (5) in subsection (s)(3)(A)(ii), by striking “sub-  
12 section (e)(1)(B) and such other” and inserting  
13 “such”;

14 (6) in subsection (v), by inserting after the pe-  
15 riod at the end the following: “The Board shall con-  
16 form documents, forms, and procedures for mort-  
17 gages insured under this section to those in place for  
18 mortgages insured under section 203(b) to the max-  
19 imum extent possible consistent with the require-  
20 ments of this section.”;

21 (7) in subsection (w)(1)(C), by striking  
22 “(e)(4)(A)” and inserting “(e)(3)(A)”; and

23 (8) by adding at the end the following new sub-  
24 section:

1       “(x) PAYMENT TO EXISTING LOAN SERVICER.—The  
2 Board may establish a payment to the servicer of the exist-  
3 ing senior mortgage for every loan insured under the  
4 HOPE for Homeowners Program.”.

5 **SEC. 6. SERVICER SAFE HARBOR.**

6       (a) SAFE HARBOR.—

7           (1) LOAN MODIFICATIONS AND WORKOUT  
8 PLANS.—Notwithstanding any other provision of  
9 law, and notwithstanding any investment contract  
10 between a servicer and a securitization vehicle or in-  
11 vestor, a servicer that acts consistent with the duty  
12 set forth in section 129A(a) of Truth in Lending Act  
13 (15 U.S.C. 1639a) shall not be liable for entering  
14 into a loan modification or workout plan with re-  
15 spect to any such mortgage that meets all of the cri-  
16 teria set forth in paragraph (2)(B) to—

17           (A) any person, based on that person’s  
18 ownership of a residential mortgage loan or any  
19 interest in a pool of residential mortgage loans  
20 or in securities that distribute payments out of  
21 the principal, interest and other payments in  
22 loans on the pool;

23           (B) any person who is obligated to make  
24 payments determined in reference to any loan



1 or any interest referred to in subparagraph (A);

2 or

3 (C) any person that insures any loan or  
4 any interest referred to in subparagraph (A)  
5 under any law or regulation of the United  
6 States or any law or regulation of any State or  
7 political subdivision of any State.

8 (2) ABILITY TO MODIFY MORTGAGES.—

9 (A) ABILITY.—Notwithstanding any other  
10 provision of law, and notwithstanding any in-  
11 vestment contract between a servicer and a  
12 securitization vehicle or investor, a servicer—

13 (i) shall not be limited in the ability  
14 to modify mortgages, the number of mort-  
15 gages that can be modified, the frequency  
16 of loan modifications, or the range of per-  
17 missible modifications; and

18 (ii) shall not be obligated to repur-  
19 chase loans from or otherwise make pay-  
20 ments to the securitization vehicle on ac-  
21 count of a modification, workout, or other  
22 loss mitigation plan for a residential mort-  
23 gage or a class of residential mortgages  
24 that constitute a part or all of the mort-  
25 gages in the securitization vehicle,

1 if any mortgage so modified meets all of the cri-  
2 teria set forth in subparagraph (B).

3 (B) CRITERIA.—The criteria under this  
4 subparagraph with respect to a mortgage are as  
5 follows:

6 (i) Default on the payment of such  
7 mortgage has occurred or is reasonably  
8 foreseeable.

9 (ii) The property securing such mort-  
10 gage is occupied by the mortgagor of such  
11 mortgage.

12 (iii) The servicer reasonably and in  
13 good faith believes that the anticipated re-  
14 covery on the principal outstanding obliga-  
15 tion of the mortgage under the particular  
16 modification or workout plan or other loss  
17 mitigation action will exceed, on a net  
18 present value basis, the anticipated recov-  
19 ery on the principal outstanding obligation  
20 of the mortgage to be realized through  
21 foreclosure.

22 (3) APPLICABILITY.—This subsection shall  
23 apply only with respect to modifications, workouts,  
24 and other loss mitigation plans initiated before Jan-  
25 uary 1, 2012.

1 (b) REPORTING.—Each servicer that engages in loan  
2 modifications or workout plans subject to the safe harbor  
3 in subsection (a) shall report to the Secretary on a regular  
4 basis regarding the extent, scope and results of the  
5 servicer's modification activities. The Secretary shall pre-  
6 scribe regulations specifying the form, content, and timing  
7 of such reports.

8 (c) DEFINITION OF SECURITIZATION VEHICLES.—  
9 For purposes of this section, the term “securitization vehi-  
10 cle” means a trust, corporation, partnership, limited liabil-  
11 ity entity, special purpose entity, or other structure that—

12 (1) is the issuer, or is created by the issuer, of  
13 mortgage pass-through certificates, participation cer-  
14 tificates, mortgage-backed securities, or other similar  
15 securities backed by a pool of assets that includes  
16 residential mortgage loans; and

17 (2) holds such mortgages.

18 **SEC. 7. AVAILABILITY OF TARP FUNDS TO SMALLER COM-**  
19 **MUNITY INSTITUTIONS.**

20 (a) PROMPT ACTION.—The Secretary shall promptly  
21 take all necessary actions to provide assistance under title  
22 I of the Emergency Economic Stabilization Act of 2008  
23 to smaller community financial institutions, including such  
24 institutions that are privately held.

1       (b) COMPARABLE TERMS.—An institution that re-  
2 ceives assistance after the date of the enactment of the  
3 this Act, shall do so on terms comparable to the terms  
4 applicable to institutions that received assistance prior to  
5 the date of the enactment of this Act if the institution—

6           (1) has submitted an application on which no  
7 action has been taken, such as institutions that are  
8 C corporations (including privately held institutions)  
9 and community development financial institutions;  
10 or

11          (2) is of a type for which the Secretary has not  
12 yet established an application deadline or for which  
13 any such deadline has not yet occurred as of the  
14 date of the enactment of this Act, such as institu-  
15 tions that are non-stock corporations, S-corpora-  
16 tions, mutually-owned insured depository institutions  
17 (as defined in section 3 of the Federal Deposit In-  
18 surance Act).

19       (c) DEFINITIONS.—For purposes of this section, the  
20 terms “S Corporation” and “C Corporation” shall have  
21 the same meaning given to those terms in section 1361(a)  
22 of the Internal Revenue Code of 1986.